

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JONATHAN McCORD,

Plaintiff,

ORDER

v.

10-cv-318-bbc

RICK RAEMISCH, Secretary Wisconsin
Department of Corrections,
JOHN DOE 1, Correctional Officer,
Wisconsin Department of Corrections

Defendants.

This case was reopened on August 9, 2010, when I granted plaintiff's motion for reconsideration and directed the warden at the Waupun Correctional Institution to advise this court of the status of plaintiff's request to withdraw funds from his account for the initial partial payment in this case. The warden responded in a letter dated August 24, 2010, clarifying the disbursement procedure and indicating that the \$2.47 initial partial payment would be sent from the next deposit to plaintiff's account. On September 15, 2010, the warden sent a follow up letter advising that plaintiff had failed to authorize the Business Office to submit the initial partial payment to the court, despite having received funds in his

account. Now plaintiff has submitted a letter in which he says that there is no valid order to pay the initial partial filing fee and he does not want the institution business office to withhold the \$2.47, which could otherwise be put towards paying plaintiff's other debts and obligations.

Although plaintiff is technically correct, that his time to submit the initial partial payment expired as of August 30, 2010, his case remained open because the warden advised that the payment would be forthcoming as soon as plaintiff received money in his account. That deposit to plaintiff's account was made on August 25, 2010, just five days before the deadline for submitting the partial filing fee to the court. Perhaps plaintiff thought it was too late to submit the fee. Or perhaps plaintiff is no longer interested in prosecuting this case. However, because there appears to have been miscommunication among all parties, I will allow plaintiff one final extension of time to submit the \$2.47 initial partial payment he has been ordered to pay. If, by October 20, 2010, this court has not received plaintiff's initial partial filing fee, I will assume he is no longer interested in pursuing this action and I will dismiss the case without prejudice and plaintiff will not owe a filing fee. If however, plaintiff pays the assessed partial filing fee, his complaint will then be taken under advisement for screening as required by 28 U.S.C. § 1915(e)(2). If plaintiff chooses to pursue this action, he should show a copy of this order to prison officials to insure that they are aware they should send his initial partial payment to this court.

ORDER

IT IS ORDERED that plaintiff Jonathan McCord is GRANTED an extension of time until October 20, 2010 to pay the initial partial filing fee. He is to submit a check or money order in the amount of \$2.47 to the clerk of court on or before October 20, 2010. If, by October 20, 2010, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to plaintiff's refiling his case at a later date.

Entered this 30th day of September, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge